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DEPARTMENT OF NATURAL RESOURCES

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Outgoing
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OK

May 19, 2009

Ms. Gina Rau
Covol Engineered Fuels, LC
10653 S. River Front Parkway, Suite 300
South Jordan, UT 84095

Subject: Deficient Wellington Dry-Coal Cleaning Facility Application, COVOL Engineered Fuels, C/007/0045, Task #3256

Dear Ms. Rau:

The Division has reviewed your application to operate a dry-coal cleaning operation.

While some progress has been made, the Division has determined that there are still some deficiencies that must be addressed before a determination can be made that the requirements of the R645 Coal Mining Rules have been met, and an approval can be granted. Those deficiencies are listed as an attachment to this letter.

Each deficiency identifies its author by that author's initials in parentheses, such that your staff can directly communicate with that individual should any questions arise.

The plans as submitted are inadequate and must be modified. Please correct the deficiencies and resubmit the entire application such that our reviewers can review the application in its entirety. We will expect the revised plans to be submitted within 60 days or no later than July 13, 2009. Please call me at (801) 538-5325 if you have any questions.

Sincerely,

Daron R. Haddock
Permit Supervisor

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Deficiency List
WG #3256
Wellington Dry-Coal Cleaning Facility Application

The members of the review team include the following individuals:

Steve Christensen (SC)
Joe Helfrich (JH)
Pete Hess (PH)

R645-301-724.100: The application does not meet the Groundwater Baseline requirements as required by the State of Utah R645-Coal Mining Rules. The following deficiencies must be addressed prior to Division approval of the permit:

- The Permittee must provide the surface and groundwater baseline data in tabular form and a map of all sampling locations. (SC)
- The Permittee must provide a discussion as to how the information/data obtained from the Savage Coal Terminal and “nearby wells” is representative of the ground water resources located at the site. (SC)

The following deficiencies have been identified from the applicants’ response to the Division’s correspondence dated February 17, 2009, (John Baza to Keith Thompson):

- The application does not include a description of the vegetative communities in the adjacent area. The description of each plant community needs to include the dominant and or subdominant species in the text and properly define the boundaries of each community, (a label on the map does not define the area covered by the community). The labels should be included in the legend on the map in Appendix 3-1 that is identified as “Vegetative communities”. (JH)
- The map needs to be to the appropriate scale of 1:24,000, (R645-301-141), and include a legend that identifies each of the communities in the adjacent area. (JH)
- Eight of the seventeen Forbs listed on page 2 of Appendix 3-1 are incorrect. The information on this page needs to be revised accordingly. (JH)
- The application needs to include maps, (to appropriate scale of 1:24,000), for Mule Deer, Pronghorn Antelope and Burrowing owl. Consultation with the DWR, (Sara Lindsey, Information Manager, Utah natural Heritage Program and Tony Wright, Sensitive species biologist), indicate that the Wildlife Habitat map does not accurately represent the habitat for the Bluehead Sucker, Prairie Dog and Burrowing Owl. The applicant needs to provide an accurate habitat map, (verified by DWR), for these species. (JH)
- The application includes a literature search for the burrowing owl but does not include an

approved, (FWS protocol), on the ground survey and results for this species. (JH)

- In order to verify that the surveys, (Burrowing owl and Threatened and Endangered Species), have been completed by an individual qualified in the subject to be analyzed, (R645-301-130 ET sec), the application needs to include qualifications statements of the individual or individuals that conduct the surveys. Minimum requirements include a bachelor's degree in Wildlife Biology or closely related field with a minimum of five years experience in Wildlife and Threatened and Endangered Species surveys. (JH)
- The applicant has not addressed the following deficiencies:
- Include the following maps for the permit site (and the adjacent area where applicable):
 - ❑ Cultural resources: area covered by the literature search, and any cultural resources found.
 - In order to verify that the (Cultural Resources class 1 Literature Search has been completed by an individual qualified in the subject to be analyzed, (R645-301-130 et sec), the application needs to include qualifications statements of the individual or individuals that conducted the survey. Minimum requirements include a graduate degree in Archaeology or Paleontology and confirmation of projects completed with PLPCO or the Antiquities section of SHPO. Qualification statements will be verified with the appropriate entity. (JH)
 - ❑ Monitoring and sampling locations
 - ❑ Vegetation reference area
 - ❑ Public parks and cultural or historic resources located within the permit and adjacent area.
 - ❑ Facilities to be left at reclamation
 - ❑ Reclamation surface and subsurface manmade features
 - ❑ Surface ownership
- The referenced maps need to be to the appropriate scale of 1:6,000 or 1:24,000. (JH)
- The application does not include a statement of acknowledgement that the water consumption from Miller Canyon is pending approval from the U. S. Fish and Wildlife Service (FWS) even though it is below the 100 acre feet limit. (JH)
- The application does not include site-specific information that describes the type of industrial use the property will be used for at the completion of mining activities. (JH)
- The application does not include a copy of the Wellington City agreement for reclamation of the site. (JH)

- The applicant has not committed to provide the following information at the end of mining:

The entity responsible for the post mining land use and,

A written request from the entity identifying their needs for the property, and a right of entry agreement between Covol and the industrial site user if other than Covol;

Or a clear and concise methodology for the reclamation of that portion of the disturbed area. (JH)

R645-301-830.140. The amount of bond will be based on, but not limited to, the detailed estimated cost, with supporting calculations for the estimates, submitted by the permit applicant.

Table 8-1 of the application identifies the Reclamation Tasks and the dimensions of structures to be taken care of at the time of reclamation. It is understood that some of these structures may not be reclaimed or tasks may not be performed should there be an approved post-mining land use that allows them to be left. While the site is approved for an industrial post-mining land use, the need for the structures will only be evaluated after a new owner is identified.

Because of the uncertainty associated with the use of any of the Structures/Areas, a reclamation cost estimate must be provided for each of the reclamation tasks associated with Table 8-1. Costs for the disposal of concrete, steel or waste materials (including haul and disposal fees) must be provided as well as earthwork calculations and costs for any earthmoving activities. (PH)